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Attorneys for North Star Trust Company

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THOMAS FERNANDEZ, LORA SMITH,  
and TOSHA THOMAS

Plaintiffs,

vs.

K-M INDUSTRIES HOLDING CO., INC.;  
K-M INDUSTRIES HOLDING CO., INC.  
ESOP PLAN COMMITTEE; WILLIAM  
E. AND DESIREE B. MOORE  
REVOCABLE TRUST; TRUSTEES OF  
THE WILLIAM E. AND DESIREE B.  
MOORE REVOCABLE TRUST; CIG  
ESOP PLAN COMMITTEE; NORTH  
STAR TRUST COMPANY; DESIREE B.  
MOORE REVOCABLE TRUST;  
WILLIAM E. MOORE MARITAL  
TRUST; WILLIAM E. MOORE  
GENERATION-SKIPPING TRUST; and  
DESIREE MOORE, BOTH IN HER  
INDIVIDUAL CAPACITY AND AS  
TRUSTEE OF THE WILLIAM E AND  
DESIREE B. MOORE REVOCABLE  
TRUST'S SUCCESSOR TRUSTS  
NAMED ABOVE,

Defendants.

Case No. C06-07339 CW

**STIPULATION AND ORDER SETTING  
PRE-TRIAL AND TRIAL SCHEDULE  
AS MODIFIED**

1 WHEREAS, the pretrial conference in this case is currently set for June 30, 2009, and trial  
2 is set to begin on August 3, 2009;

3 WHEREAS, on October 30, 2008, the Court vacated the previously set expert disclosure  
4 and expert discovery cut-off dates and instructed the parties to propose new deadlines;

5 WHEREAS, on January 15, 2009, the Court vacated the previously set cut-off date for  
6 hearing dispositive motions and instructed the parties to meet and confer regarding new cut-off  
7 dates for dispositive motions, the pretrial conference, and trial;

8 WHEREAS, North Star Trust Company's ("NSTC") Motion for Judgment on the  
9 Pleadings ("Motion") and any cross motions on the pleadings are now schedule to be heard June  
10 18, 2009;

11 WHEREAS, because the hearing on NSTC's Motion and any cross motions is now set for  
12 one week before the pretrial conference and six weeks before the trial date, the parties now  
13 propose a schedule designed to economize the proceedings, permit expert discovery, and allow  
14 for F.R.Civ.P. Rule 56 motions before the trial of this case on the merits.

15 NOW THEREFORE, THE PARTIES HEREBY STIPULATE and AGREE as follows:

- 16 1. Disclosure of experts and initial reports shall be completed by September 1, 2009;
- 17 2. Disclosure of rebuttal experts and reports shall be completed by September 21,  
18 2009;
- 19 3. Expert discovery shall be completed by October 14, 2009;
- 20 4. Last day for hearing dispositive motions shall be December 10, 2009, at 2:00 p.m.:  
21 (a) Defendant North Star shall file its motion and supporting brief on October 26,  
22 2009; (b) Plaintiffs and the other parties shall file their opposing brief, cross-  
23 motion and brief in support of their cross-motion, if any, on November 9, 2009; (c)  
24 Defendant North Star shall file its reply and opposition to Plaintiffs' and the other  
25 parties' cross-motion, if any, on November 20, 2009; (d) if Plaintiffs and the other  
26 parties file a cross-motion, they shall file a reply in support of that motion on  
27 November 25, 2009.
- 28 5. Case Management Conference shall be held on December 10, 2009, at 2:00 p.m.;

6. The pre-trial conference shall be held on July 27, 2010, at 2:00 p.m., or two weeks before the earliest trial date available after April 5, 2010; and

7. The bench trial (10 days) shall commence on August 16, 2010, at 8:30 a.m. or at the earliest trial date available after April 5, 2010.

**IT IS SO STIPULATED:**

DATED: April 7, 2009

LEWIS, FEINBERG, LEE, RENAKER & JACKSON, P.C.

By: /S/ Todd Jackson  
Daniel M. Feinberg  
Todd Jackson  
Attorneys for Plaintiffs Thomas Fernandez,  
Lora Smith, and Tosha Thomas

DATED: April 7, 2009

LOVITT & HANNAN, INC.

By: /S/ Henry Bornstein  
Henry Bornstein  
Ronald Lovitt  
Attorneys for Defendants K-M Industries  
Holding Co., Inc.; K-M Industries Holding  
Co., Inc. ESOP Plan Committee; and CIG  
ESOP Plan Committee

DATED: April 7, 2009

HENNIGAN, BENNETT & DORMAN LLP

By: /S/ Robert L. Palmer  
Robert L. Palmer  
Lauren Smith  
Allison Chock  
Attorneys for Defendants William E. and  
Desiree B. Moore Revocable Trust; Trustee  
of the William E. and Desiree B. Moore  
Revocable Trust; Desiree B. Moore  
Revocable Trust; William E. Moore Marital  
Trust; William E. Moore Generation-  
Skipping Trust; and Desiree Moore

DATED: April 7, 2009

MORGAN, LEWIS & BOCKIUS LLP

By: /S/ Donald P. Sullivan  
Nicole A. Diller  
Donald P. Sullivan  
Attorneys for Defendant North Star Trust  
Company

**ATTESTATION**

I hereby attest that I have on file all holograph signatures for any signatures indicated by a  
“conformed” signature (/S/) within this e-filed document.

DATED: April 8, 2009

MORGAN, LEWIS & BOCKIUS LLP

By: /S/ Donald P. Sullivan

Nicole A. Diller  
Donald P. Sullivan  
Attorneys for Defendant North Star Trust  
Company

**ORDER**

For good cause shown, it is hereby ordered that the following Pre-Trial and Trial schedule shall be adopted in this case:

1. Disclosure of experts and initial reports shall be completed by September 1, 2009;
2. Disclosure of rebuttal experts and reports shall be completed by September 21, 2009;
3. Expert discovery shall be completed by October 14, 2009;
4. Last day for hearing dispositive motions shall be December 10, 2009, at 2:00 p.m.:  
 (a) Defendant North Star shall file its motion and supporting brief on October 26, 2009; (b) Plaintiffs and the other parties shall file their opposing brief, cross-motion and brief in support of their cross-motion, if any, **in a single brief 25 pages or less**, on November 9, 2009; (c) Defendant North Star shall file its reply and opposition to Plaintiffs' and the other parties' cross-motion, if any, **in a single brief 25 pages or less**, on November 20, 2009; (d) if Plaintiffs and the other parties file a cross-motion, they shall file a reply in support of that motion on November 25, 2009.
5. Case Management Conference shall be held on December 10, 2009, at 2:00 p.m.;
6. The pre-trial conference shall be held on July 27, 2010, at 2:00 p.m; and
7. The bench trial (10 days) shall commence on **August 23, 2010**, at 8:30 a.m.

**IT IS SO ORDERED:**

4/16/09



DATED: \_\_\_\_\_

\_\_\_\_\_  
 The Honorable Claudia Wilken  
 United States District Judge

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